

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID W. MCCUISTION,

Plaintiff,

v.

WASHINGTON STATE ATTORNEY
GENERAL'S OFFICE and DR. HENERY
RICHARDS,

Defendants.

Case No. C06-5329RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Petitioner's filing of a Notice of Appeal [Dkt. #8].

Having considered the entirety of the records and file herein, the Court rules as follows:

The plaintiff has filed a Notice of Appeal of this Court's Order Adopting Report and Recommendation [Dkt. #7] which denied the petitioner's application to proceed in forma pauperis in his habeas corpus case. For the reasons stated in the Magistrate Judge's Report and Recommendation and because petitioner has paid the filing fee, this Court declines to issue a Certificate of Appealability. The petitioner has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

